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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

04 10008 WGY

REV. PATRICK J. MAHONEY, CHRISTIAN)

Case No.:

DEFENSE COALITION, OPERATION

DECLARATION OF PATRICK J.
MAHONEY IN SUPPORT OF
APPLICATION FOR TEMPORARY
RESTRAINING ORDER

RESCUE BOSTON, and OPERATION

RESCUE WEST,

Plaintiffs,

vs.

CITY OF BOSTON and MAYOR THOMAS

M. MENINO, in his Official Capacity as

Mayor of the City of Boston,

Defendants.

I, Patrick J. Mahoney, hereby declare:

1. I am one of the plaintiffs' in the above-entitled matter and I make this declaration out of my own personal knowledge. If called upon to testify to the contents herein, I could and would do so competently.

DECLARATION - 1

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1 2. I am an ordained Presbyterian Minister and the Director for the Christian Defense
2 Coalition. It is my intention to exercise my First Amendment rights in Boston during the week
3 of July 24 through August 1, 2004 at and during the Democratic National Convention.

4 3. I have submitted several permit applications to the defendants pursuant to their
5 newly enacted permitting process. I have grave concerns as to whether or not my permit
6 applications will be granted or denied in time for my planned First Amendment activities during
7 the convention. The newly enacted permitting process fails to define any time limitations (time
8 within which a decision must be rendered) relevant to the agencies and departments that must be
9 consulted, and prior to my permit applications receiving final approval from the defendants. The
10 newly enacted permitting process allows for an indefinite postponement of the issuance of a
11 permit in that the relevant agencies and departments have no time limitations in which to reach a
12 determination as to my applications for my permits.

13 4. The newly enacted permitting process also precludes me from exercising my
14 constitutional rights at the Democratic National Convention after July 10, 2004. The process
15 requires that permit applications be submitted 14 days before the proposed event. I have
16 exercised my First Amendment rights during the last seven presidential conventions. I know
17 from my own experience that issues arise on a fluid basis during a presidential convention
18 requiring the necessity of constant change in order to react to the presented challenge. I will not
19 be able to hold any events after the July 10, 2004 deadline that I have not already planned and
20 submitted for approval to the defendants. I should be able to exercise my First Amendment
21 rights without restraint at any time and in response to any issues that may arise.

22 5. Under the newly enacted permitting process, the potential exists pursuant to the
23 indefinite postponement of permit approvals, that no permits may be approved and/or issued for
24 the week of July 24 through August 1, 2004. Presidential conventions only take place once
25 every four years and should not be subject to censure as is the case with the defendant's newly
26 enacted guidelines for permit approval.

27 6. In addition, under the guidelines of the newly enacted permitting process, if one
28 sought after site is otherwise unavailable for First Amendment and/or other constitutional

1 exercises, no provision or clause has been proffered in the new guidelines that would provide for
2 alternative sites in place of the first site to conduct constitutionally protected activity. There is
3 absolutely no provision in the newly enacted guidelines that addresses denial of a permit
4 application due to competing applications for the same time and place. More importantly, under
5 the new guidelines, I cannot exercise my constitutional right to assembly and/or association
6 without a proper permit.

7 7. I am further hampered in my ability to preplan events during the Democratic
8 National Convention in that I have no idea when, if at all, my permit applications will be
9 approved. First Amendment type events require many hours of planning, meeting with city
10 officials, assuring that the safety of all the participants will be paramount, and that all activity
11 will be peaceful under any and all circumstances. In addition, the newly enacted guidelines
12 require me to seek a permit for every conceivable location that I may wish to engage in
13 constitutional activity given the July 10, 2004 deadline. If I fail to seek out a permit for a given
14 area as noted herein, I will be prevented from exercising my First Amendment and constitutional
15 rights in those areas that I may have overlooked and/or are brought to my attention after the July
16 10, 2004 deadline. The newly enacted guidelines force me to become a seer in order to cover
17 every possible location that may become important during the convention.

18 8. The newly enacted guidelines of the defendants restrict all First Amendment
19 speech and constitutional activities without a permit. The defendants cannot possibly point to
20 any governmental interest that justifies such censorship. The defendants have promulgated the
21 newly enacted permitting process specifically for the Democratic National Convention. I
22 contend that the guidelines provide for unfettered and unbridled discretion of public officials
23 within the agencies and departments that must approve my applications. There is no indication
24 of any standards the department and agency officials must follow when rendering their decisions.

25 9. I believe that I have the guaranteed right to exercise my First Amendment
26 freedoms of speech, assembly and association. The defendants newly enacted guidelines
27 relevant to the permitting process efficiently and effectively chill any participation in the
28 exercise of my constitutional rights. The threat of defendants' to regulate the permitting process

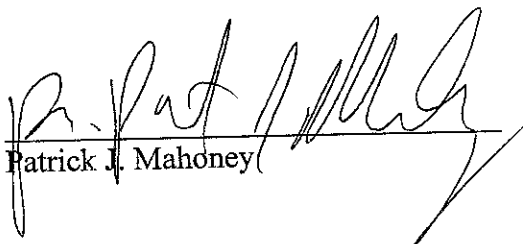
DECLARATION - 3

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1 by their newly enacted guidelines infringes upon my constitutional rights as guaranteed by the
2 First Amendment to the United States Constitution and cannot be sanctioned, nor condoned, by
3 this Court. By way of this application, I ask the Court for a temporary restraining order that
4 returns the status quo prior to the newly enacted guidelines being utilized and enforced, and that
5 I be permitted to exercise my First Amendment rights unencumbered and unfettered. I
6 specifically ask the Court to order these defendants to promulgate and utilize the permitting
7 process used by the National Parks Service in Washington DC relevant to the Presidential
8 Inauguration; permits are deemed granted after 24 hours.
9

10 I hereby declare under penalty of perjury under the laws of the State of Massachusetts
11 and the United States of America that the foregoing is true and correct.
12

13 Executed this 19th day of May 2004.
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18 Patrick J. Mahoney
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